

AN ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE, INDIANA, TO ISSUE ITS "CITY OF FORT WAYNE, INDIANA, ECONOMIC DEVELOPMENT FIRST MORTGAGE REVENUE BONDS, SERIES 1994 (OTTENWELLER COMPANY, INC. PROJECT)" AND LOAN PROCEEDS THEREOF TO OTTENWELLER COMPANY, INC., AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO.

WHEREAS, the City of Fort Wayne, Indiana (the "City"), is a municipal corporation and political subdivision of the State of Indiana and by virtue of Indiana Section 36-7-12-1 et seq., as amended (the "Act"), is authorized and empowered to adopt this ordinance (this "Bond Ordinance") and to carry out its provisions; and

WHEREAS, Ottenweller Company, Inc., an Indiana corporation (the "Borrower"), has agreed to acquire, construct and equip certain economic development facilities in Fort Wayne, Indiana, including the construction of a 35,000 square foot expansion to Borrower's existing manufacturing facility located at 3011 Congressional Parkway, Fort Wayne, Indiana 46808, and the acquisition and installation of manufacturing equipment to be used in Borrower's manufacture of fabricated ferrous metal parts for the heavy truck, construction and agriculture equipment industries (the "Project"), if the City will finance a portion of the cost of the Project with the proceeds from the sale of its City of Fort Wayne, Indiana, Economic Development First Mortgage Revenue Bonds, Series 1994 (Ottenweller Company, Inc. Project), in the aggregate principal amount of \$1,840,000 (the "Bonds"); and

WHEREAS, the Fort Wayne Economic Development Commission has performed all actions required of it by the Act preliminary to the adoption of this Bond Ordinance and has approved and forwarded to this Common Council the forms of (1) the Bond Purchase and Loan Agreement (the "Loan Agreement"), dated as of October 1, 1994, among the City, the Borrower and NBD Bank, N.A. (the "Original Purchaser") providing for the issuance and sale of the Bonds by the City, the loan by the City to the Borrower of the proceeds therefrom and securing the payment of the Borrower's obligations to the City; (2) the form of the Bond (contained in the

Loan Agreement); and (3) this Bond Ordinance (the foregoing documents are hereinafter referred to, collectively, as the "Loan Documents").

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA.

**Section 1. Findings; Public Benefits.** The Common Council hereby finds and determines that the Project is an "economic development facility" as that phrase is used in the Act; that the acquisition, construction and equipping of the Project will increase employment opportunities and increase diversification of economic development in the City, will improve and promote the economic stability, development and welfare in the City, will encourage and promote the expansion of industry, trade and commerce in the City and the location of other new industries in such area; and that the public benefits to be accomplished by this Bond Ordinance, in tending to overcome insufficient employment opportunities and insufficient diversification of industry, are greater than the cost of public services (as that phrase is used in the Act) which will be required by the Project.

**Section 2. Authorization of the Bonds.** In order to pay a portion of the cost of the Project, the Bonds are hereby authorized to be issued, sold and delivered. Any additional costs of the Project will be paid for by the Borrower.

**Section 3. Terms of the Bonds.** The Bonds shall  
(i) be in the aggregate principal amount of \$1,840,000,  
(ii) be dated as of October 1, 1994; (iii) be executed  
at or prior to the closing date by the manual or  
facsimile signatures of Mayor of the City and the Clerk  
of the City; (iv) bear interest from the date of  
delivery thereof at fixed rates of interest not to  
exceed ten percent (10%) per annum; (v) mature at the  
time and in the amounts set forth in the Loan Agreement  
and shall have a stated maturity date of April 1, 2005;  
(vi) be payable as to interest in monthly installments  
on the first day of each month commencing December 1,  
1994, and continuing to and including April 1, 1995,  
and as to principal and interest in monthly  
installments on the first day of each month commencing  
May 1, 1995, and continuing to and including April 1,  
2005; (vii) be issuable in denominations of \$5,000 or  
whole multiples thereof, (viii) be issued only in fully  
registered form, (ix) be payable through such medium  
and at such places as provided therein, and (x) be

subject to optional and mandatory redemption as provided in the Loan Documents. The Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit or taxing power of, the City, but are limited obligations of the City payable solely from revenues and other amounts derived from the Loan Documents. Forms of the Loan Documents are before this meeting and are by this reference incorporated in this Bond Ordinance, and the City Clerk is hereby directed to insert them into the minutes of the Common Council and to keep them on file.

**Section 4. Sale of the Bonds.** The Mayor and the City Clerk are hereby authorized and directed to sell the Bonds to or upon the order of the Original Purchaser pursuant to the Loan Agreement at a price of \$1,840,000 representing 100% of the par value thereof, payment of which shall be made in accordance with the provisions of the Loan Agreement.

**Section 5. Loan Agreement.** In order to provide for the commitment of the City to sell the Bonds and to provide for the loan of the proceeds of the Bonds to the Borrower and the payment by the Borrower of amounts sufficient to pay the principal of, premium, if any, and interest on the Bonds, and in order to assign the City's rights under the aforementioned loan to the Original Purchaser, the Mayor and the City Clerk are hereby authorized and directed to execute and deliver, in the name of and on behalf of the City, the Loan Agreement in substantially the form submitted to this Common Council, which is hereby approved in all respects.

**Section 6. Bonds.** The Mayor and the City Clerk are hereby authorized and directed to execute and deliver, in the name of and on behalf of the City, the Bonds in substantially the form submitted to this Common Council, which is hereby approved in all respects.

**Section 7. Execution.** The Mayor and the City Clerk are hereby authorized and directed to execute and deliver, in the name and on behalf of the City, the Bonds (in the form contained in the Loan Agreement), and the Loan Agreement. The Mayor and the City Clerk are hereby authorized, without further approval of the Common Council or the Fort Wayne Economic Development Commission, to approve such changes in the Loan

1 Documents as may be permitted by Act, such approval to  
2 be conclusively evidenced by their execution thereof.

3           **Section 8.** The City hereby elects to have the  
4 provisions of Section 144(a)(4)(A) of the Internal  
Revenue Code of 1986, as amended, apply to the Bonds.

5           **Section 9. General.** The Mayor and the City  
6 Clerk are, and each of them is, hereby authorized and  
7 directed, in the name and on behalf of the City, to  
8 execute any and all agreements, documents and  
9 instruments, perform any and all acts, approve any and  
10 all matters, and do any and all things deemed by them,  
11 or either of them, to be necessary or desirable in  
12 order to carry out and comply with the intent,  
13 conditions and purposes of this Bond Ordinance  
(including the preambles hereto and the documents  
mentioned herein), the acquisition, construction and  
equipping of the Project by the Borrower, the issuance  
and sale of the Bonds, and the securing of the Bonds  
under the Loan Documents.

15           **Section 10. Binding Effect.** The provisions of  
16 this Bond Ordinance and the Loan Documents to which the  
17 City is a party shall constitute a binding contract  
18 between the City and the holders of the Bonds, and  
19 after issuance of the Bonds this Bond Ordinance shall  
20 not be repealed or amended in any respect which would  
21 adversely affect the rights of the holders of the Bonds  
as long as the Bonds or interest thereon remains  
unpaid.

22           **Section 11. Repeal.** All ordinances or parts of  
23 ordinances in conflict herewith are hereby repealed.

24           **Section 12. Effective Date.** This Bond Ordinance  
25 shall be in full force and effect immediately upon its  
26 adoption by the Common Council and execution by the  
27 Mayor.

28           **Section 13. Copies of Loan Documents on File.**  
29 Two copies of the Loan Documents incorporated into this  
30 Bond Ordinance were duly filed in the office of the  
31 City Clerk and are available for public inspection in  
accordance with Indiana Code Section 36-1-5-4.

1                   Section 14. That this Ordinance shall be in  
2                   full force and effect from and after its passage, and  
3                   execution by the Mayor.  
4

5                   D.S. Dom  
6

7                   Council Member  
8

9                   APPROVED AS TO FORM  
10                  AND LEGALITY  
11

12                  J. Timothy McCaulay by Linda P. Powell, Staff Atty.  
13                  J. Timothy McCaulay, City Attorney  
14



# The City of Fort Wayne

Paul Helmke, Mayor

## MEMORANDUM

### LAW DEPARTMENT

**TO:** MEMBERS OF COMMON COUNCIL  
**FROM:** R. DAVID BOYER, ASSOCIATE CITY ATTORNEY  
**DATE:** October 11, 1994  
**SUBJECT:** OTTENWELLER/ECONOMIC DEVELOPMENT  
MORTGAGE REVENUE BOND ISSUE

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Attached is an Ordinance to authorize the issuance of \$1,900,000 Economic Development first Mortgage Revenue Bonds for Ottenweller Company, Inc. to allow them to construct a 35,000 square foot addition to their present manufacturing facility and to acquire additional equipment. Applicant represents that 8 additional jobs at start up will be created with a total of 25 additional jobs at the end of 3 years.

The Ordinance ratifies the Economic Development Commission final resolution and authorizes the bond issue allowing the Applicant to proceed with the construction and equipping of the project.

The bond issue is to be a limited obligation issue and will not impact the tax rate or the City's bonding capacity.

A failure to pass the Ordinance would cause the borrower to face increased interest expenses or to abandon the project.

RDB:dcb

attachments

*J-94-10-03*

Read the first time in full and on motion by Edmunds,  
seconded by \_\_\_\_\_, and duly adopted, read the second time by \_\_\_\_\_,  
title and referred to the Committee on Finance (and the  
City Plan Commission for recommendation) and Public Hearing to be held after  
due legal notice, at the Common Council Conference Room 128, City-County  
Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_, day  
of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ o'clock M., E.S.T.

DATED: 10-11-94

Sandra E. Kennedy

SANDRA E. KENNEDY, CITY CLERK

Nadja E. Elsiff, Deputy Clerk

Read the third time in full and on motion by Edmunds,  
seconded by \_\_\_\_\_, and duly adopted, placed on its passage.  
PASSED LOST by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>9</u>			
BRADBURY	<u>✓</u>			
EDMONDS	<u>✓</u>			
GIAQUINTA	<u>✓</u>			
HENRY	<u>✓</u>			
LONG	<u>✓</u>			
LUNSEY	<u>✓</u>			
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 10-25-94

Sandra E. Kennedy

SANDRA E. KENNEDY, CITY CLERK

Nadja E. Elsiff, Deputy Clerk

Passed and adopted by the Common Council of the City of Fort Wayne,  
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)  
(SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. J-81-94  
on the 25th day of October, 1994

ATTEST:

(SEAL)

Jackie Lengyel

PRESIDING OFFICER

SANDRA E. KENNEDY, CITY CLERK

Nadja E. Elsiff, Deputy Clerk

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on  
the 26th day of October, 1994,  
at the hour of 11:30 o'clock A.M., E.S.T.

Sandra E. Kennedy

SANDRA E. KENNEDY, CITY CLERK

Nadja E. Elsiff, Deputy Clerk

Approved and signed by me this 21st day of October,  
1994, at the hour of 2:30 o'clock P.M., E.S.T.

Paul Helmke

PAUL HELMKE, MAYOR

DIGEST SHEET

TITLE OF ORDINANCE AN ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE, INDIANA, TO ISSUE ITS "CITY OF FORT WAYNE ECONOMIC DEVELOPMENT FIRST MORTGAGE BONDS SERIES 1994 (OTTENWELLER COMPANY, INC. PROJECT)" AND LOAN PROCEEDS THEREOF TO OTTENWELLER COMPANY, INC. AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO.

DEPARTMENT REQUESTING ORDINANCE ECONOMIC DEVELOPMENT COMMISSION

SYNOPSIS OF ORDINANCE THIS ORDINANCE APPROVES AUTHORIZATION FOR ISSUANCE OF \$1,900,000 IN FIRST MORTGAGE REVENUE BONDS TO ENABLE OTTENWELLER COMPANY, INC. TO CONSTRUCT A 35,000 SQUARE FOOT ADDITION AND TO ACQUIRE ADDITIONAL EQUIPMENT AT ITS CURRENT SITE.

EFFECT OF PASSAGE OTTENWELLER COMPANY, INC. WILL BE ENABLED TO CONSTRUCT THE NEW ADDITION AND SECURE EQUIPMENT ENABLING THE CREATION OF 8 ADDITIONAL JOBS AT START UP AND 25 ADDITIONAL JOBS WITHIN 3 YEARS.

EFFECT OF NON-PASSAGE FINANCING WILL FAIL AND THE ADDITIONAL JOBS MAY BE LOST.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) NONE  
ASSIGNED TO COMMITTEE (PRESIDENT) \_\_\_\_\_

BILL NO. S-94-10-03

REPORT OF THE COMMITTEE ON  
FINANCE  
CLETUS R. EDMONDS - DONALD J. SCHMIDT - CO-CHAIR  
ARCHIE L. LUNSEY  
DAVID C. LONG

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS

REFERRED AN (ORDINANCE) (RESOLUTION) AUTHORIZING THE CITY OF FORT WAYNE, INDIANA, TO ISSUE ITS "CITY OF FORT WAYNE, INDIANA, ECONOMIC DEVELOPMENT FIRST MORTGAGE REVENUE BONDS, SERIES 1994 (OTTENWELLER COMPANY, INC. PROJECT)" AND LOAN PROCEEDS THEREOF TO OTTENWELLER COMPANY, INC., AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO

HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION  
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID  
(ORDINANCE) (RESOLUTION)

DO PASS       DO NOT PASS      ABSTAIN      NO REC.

DSR  
Patrick  
John Farny  
Clitus R Edmonds

DATED: 10-25-94.

Sandra E. Kennedy  
City Clerk